

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD  
AND LELAND MCCALL, D.D.S.**

Come now Leland McCall, D.D.S., ("Licensee") and the Missouri Dental Board ("Board") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's license as a dentist will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo,<sup>1</sup> the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's license, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo.

Licensee acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a disciplinary hearing before the Board at which time he may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against his license. Being aware of these rights provided him by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to him.

Licensee acknowledges that he has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause to discipline his license, along with citations to law and/or regulations the Board believes were violated.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's license, numbered 015188 is subject to disciplinary action by the Board in accordance with the provisions of Chapters 621 and 332, RSMo.

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<sup>1</sup> All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

### Joint Stipulation of Fact and Conclusions of Law

1. The Missouri Dental Board ("Board") is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo, for the purpose of executing and enforcing the provisions of Chapter 332.

2. Leland McCall, D.D.S. is licensed by the Board as a dentist, License No. 015188. Licensee's Missouri license is current and active.

3. On or about March 12, 2012, the Board received a letter from Clinton L. Spurrier, Prosecuting attorney for Taylor County, Iowa referencing Licensee's conviction for Assault. Licensee entered a plea of guilty to the criminal offense of Assault, a simple misdemeanor, in violation of §§ 708.1(2) and 708.2(6) of the Iowa Criminal Code, in the Iowa District Court For Taylor County, Magistrate Division, case number SMAC 009820. The Court fined Licensee \$300.00.

4. Based on the information from Iowa, the Board initiated an investigation.

5. On or about October 17, 2014, during the course of the investigation, the Board completed a continuing education and BLS/ACLS Certification Audit for the reporting period of December 1, 2010 through November 30, 2012. The audit determined that Licensee had failed to provide all of his continuing education certificates and was not in compliance with the continuing education and BLS/ACLS certification rules. Licensee had only submitted 28 hours for the 2010/2012 period. Licensee asserted that a series of medical issues diverted his attention from documenting his continuing education. Licensee failed to obtain the fifty (50) hours of Board approved continuing education required for the December 1, 2010 through November 30, 2012 period.

6. On or about February 9, 2015, Board Investigator Joshua Fisher spoke with Licensee to audit Licensee's continuing education hours for the 12/01/12 to 11/30/2014 reporting period. During the course of this investigation Investigator Fisher learned that Licensee had been placed on extended medical leave due to medical issues and substance abuse problems.

7. During a June 18, 2015 interview with Investigator Fisher, the following was revealed:

a. Licensee acknowledged he had been in treatment for alcoholism in 1999 and had been "sober for a long time".

b. Licensee noted that a series of health problems precipitated his return to drinking.

c. Licensee stated that his staff became aware of withdrawals he was experiencing and that

he sought help from his superiors at Access Family Care.

- d. Licensee acknowledged that a drug test given to Licensee at Access Family Care reflected a positive test for Oxycodone.
- e. Licensee denied an addiction to Oxycodone, asserting alcohol was his problem.
- f. Licensee acknowledged that treatment was mandated by his employer based upon the positive test for Oxycodone.
- g. Licensee said he was he started receiving treatment in Alabama at the Bradford Health Services facility in February of 2015 and continued for sixteen weeks.
- h. Licensee advised that he sought medical treatment for his spinal stenosis while in Alabama.
- i. Licensee denied prescribing a controlled substance to C.G. while in treatment as indicated in a pharmacy audit; further investigation, confirmed another doctor prescribed the medication.

8. On or about June 29, 2015, Licensee submitted fifty three (53) hours of continuing education, including his approved BLS card. Licensee appeared to be in compliance with the continuing education requirement for the 12/01/12 to 11/30/2014 renewal period.

9. During the Board's regularly scheduled October 2015 meeting, Licensee appeared before the Board. Licensee stated that during the last five years he has had numerous surgeries; six surgeries in the last two years on one knee. He noted that he suffers from spinal stenosis and knee issues; that he has been taking prescribed Oxycodone but had also started drinking. Licensee claimed that he does not suffer from drug abuse, only alcohol. He noted that he went through treatment fifteen years ago. He asserted that no patients have been harmed due to his abuses, but that his staff at work noticed. Licensee stated that he spent three months in treatment in Alabama. Regarding his criminal case, he stated that it was the result of a hunting lease dispute and characterized it as "a stupid thing to do." Licensee asserted that he "feels much better now" that his leg is finally repaired and he hopes for a full recovery. Licensee noted that he is attending and participating in a well-being program. He claimed that he is "following the program" and that he will stay on track this time. He noted that as he is a mandated participant in the Well-Being program; they will report to the Board if there are any problems. Licensee stated that he is contacting the Bradford treatment program for his records with them.

10. Licensee has a duty to maintain full and complete records of all approved continuing education credits earned pursuant to and as defined by 20 CSR 2110-2.240(2)(A), which states in pertinent part:

Each licensee shall retain records documenting his/her completion of the required hours of continuing education for a minimum of six (6) years after the reporting period in which the continuing education was completed. The records shall document the licensee's attendance at the continuing education course including, but not limited to, retaining the titles of the courses taken, dates, locations, receipts, course sponsors, agendas and number of hours earned.

11. Licensee's failure to obtain the required fifty (50) continuing education credits and maintain full and complete records of those credits is a violation of § 332.181 and of Regulation 20 CSR 2110-2.240(2).

12. Licensee's actions as described above in paragraphs 3 through 11 constitute incompetency and misconduct in the performance of, or relating to one's ability to perform the functions or duties of any profession licensed or regulated by this chapter for which the Board has authority to discipline Licensee's license.

13. Licensee's actions as described above in paragraphs 3 through 11 constitute violation of a professional trust or confidence, for which the Board has authority to discipline Licensee's license.

14. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(1), (5), (6) and (13), RSMo, which states in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any permit or license required by this chapter or any person who has failed to renew or has surrendered his or her permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

...

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of, or relating to one's ability to perform, the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, assisting, or enabling any person to violate, any provision of this chapter, or any lawful rule or regulation adopted pursuant to this chapter[.]

...

(13) Violation of any professional trust or confidence[.]

#### Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045.3, RSMo:

15. The terms of discipline shall include that the dental license, license number 015188, be placed on **PROBATION** for a period of five (5) years ("disciplinary period"). During Licensee's probation, Licensee shall be entitled to engage in the practice of dentistry under Chapter 332, RSMo, provided he adheres to all of the terms of his Settlement Agreement.

#### I. WELLNESS REQUIREMENTS

- A. During the disciplinary period, Licensee shall continue to participate in the Missouri Dental Well Being Committee ("Committee"). Licensee shall follow all recommendations of the Committee or the Committee Administrator with regards to counseling, evaluations, any treatment deemed necessary by an evaluation, and any follow-up care. Failure to fully participate in the Well Being Committee shall constitute a violation of this Agreement.
- B. During the disciplinary period, Licensee shall, at Licensee's expense, submit to drug and/or alcohol screens as required by the Board. Licensee shall, upon demand and without delay, provide a biological sample to the Board's designated representative, including allowing the Board's designated representative to obtain witnessed biological fluid samples and shall cooperate fully and completely with the Board's designated representative in providing such samples. The presence of any controlled substance, any drug whatsoever in a drug screen for which Licensee does not hold a valid prescription or any alcohol shall constitute a violation of this Agreement.
- C. During the disciplinary period, Licensee's treating physician shall submit written biannual reports to the Board addressing Licensee's current medication regime (including medication taken and dosage), any concerns or issues with Licensee's medication regime and any participation in therapy and problematic behaviors, relationship issues, assessments and the outcome of the assessment, diagnosis, therapeutic goals or expectations, treatment plan and progress.

#### II. GENERAL REQUIREMENTS

- A. Licensee shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.
- B. Licensee shall keep the Board apprised of his current home and work addresses and telephone numbers. Licensee shall inform the Board within ten days of any change of

home or work address and home or work telephone number.

- C. Licensee shall comply with all provisions of the Dental Practice Act, Chapter 332, RSMo; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.
- D. During the disciplinary period, Licensee shall timely renew his license and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Licensee's license in a current and active state.
- E. If at any time during the disciplinary period, Licensee removes himself from the state of Missouri, ceases to be currently licensed under provisions of Chapter 332, or fails to advise the Board of his current place of business and residence, the time of his absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 332.321.6, RSMo.
- F. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor his compliance with the terms and conditions of this Settlement Agreement.
- G. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, (including imposition of the revocation).
- H. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 332, RSMo, by Licensee not specifically mentioned in this document.

#### IV. ADDITIONAL REQUIREMENTS

- A. Licensee shall not allow his license to lapse.
- B. Licensee shall notify, within 15 days of the effective date of this Settlement Agreement, all hospitals, nursing homes, out-patient centers, surgical centers, clinics, and all other facilities where Licensee practices or has privileges of Licensee's disciplinary status. Notification shall be in writing and Licensee shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative.

16. The parties to this Agreement understand that the Missouri Dental Board will maintain this Agreement as an open record of the Board as provided in Chapters 332, 610 and 324, RSMo.

17. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

18. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys,

including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.

19. If no contested case has been filed against Licensee, Licensee has the right, either at the time the settlement agreement is signed by all parties or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement agreement constitute grounds for denying or disciplining the license of the licensee. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

20. If Licensee has requested review, Licensee and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect. If Licensee does not request review by the Administrative Hearing Commission, the settlement agreement goes in to effect 15 days after the document is signed by the Executive Director of the Board.

**LICENSEE**

  
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Leland McCall, D.D.S.

Date

3-4-16

**BOARD**

  
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Brian Barnett,  
Executive Director  
Missouri Dental Board

Date

3/7/16